



POLICE DEPARTMENT

August 18, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Camille McSam  
Tax Registry No. 949313  
70 Precinct  
Disciplinary Case No. 2013-10931  
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The above-named member of the Department appeared before me on May 13, 2015, charged with the following:

1. Said Police Officer Camille McSam, while assigned to the 70th precinct, on or about July 29, 2013, failed to report to the Pregnancy Medical District, as required.

P.G. 205-27, Page 1, Paragraph 6(a) – PREGNANCY RELATED GUIDELINES  
FOR UNIFORMED MEMBERS FO THE  
SERVICE

P.G. 205-01, Page 3, Paragraph 15 - REPORTING SICK

2. Said Police Officer Camille McSam, while assigned to the 70th precinct, on or about July 29, 2013, failed to maintain a current address and telephone number on file with the Department.

P.G. 206-03, Page 1, Paragraph 18 – VIOLATIONS SUBJECT TO A  
COMMAND DISCIPLINE

3. Said Police Officer Camille McSam, while assigned to the 70th precinct, while on-duty, on or about June 6, 2013, while assigned as the Telephone Switchboard Operator failed to properly handle a noise complaint, in that said Police Officer failed to assign the job to a sector.

P.G. 202-38. Page 1, Paragraph 2 – TELEPHONE SWITCHBOARD  
OPERATOR

P.G. 203-06, Page 2. Paragraph 24 - VIOLATIONS SUBJECT TO A  
COMMAND DISCIPLINE

4. Said Police Officer Camille McSam, while assigned to the 70th precinct, while on-duty, on or about August 9, 2013, wrongfully extended her meal period beyond sixty minutes, without permission or authority.

P.G. 212-02, Page. 3, Note – MEAL PERIOD

The Department was represented by Jamie Moran, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq. Respondent, through her counsel, entered a plea of Guilty to the first three Specifications and entered a plea of Not Guilty to Specification 4. The Department called Sergeant Edmund Small and Sergeant Lenny Gersbeck as witnesses. Respondent called Police Officer Lethimyle Cleveland as a witness and testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of all charges.

FINDINGS AND ANALYSIS

Specifications 1 and 2

Respondent stands charged with: (i) failing to report to the Pregnancy Medical District, as required on July 29, 2013; and, (ii) failing to maintain a current address and telephone number on file with the Department on July 29, 2013. Respondent pled guilty

to these charges and seeks mitigation. For the reasons set forth below, I do not find that Respondent has provided any information that would warrant mitigation.

Respondent was approximately five months pregnant on July 29, 2013. She reported sick on July 26, 2013 and was required to report to the Pregnancy Medical District before returning to work for her next scheduled tour. Respondent failed to appear at the Medical District on the appointed date of July 29, 2013. She explained that she "got [her] days confused" and reported instead on July 30, 2013. (Tr. 76-77).

Because of her nonappearance, it was discovered that Respondent had failed to maintain a current address and telephone number on file with the Department. Respondent testified that she had not updated her address because she was in the process of moving and was staying with her aunt for about a week. (Tr. 77-78, 88-89). She noted that she subsequently updated her 10 card with her aunt's address after the issue with the Pregnancy Medical District and again when she moved into her new apartment. (Tr. 89-90). Through her counsel, Respondent argued that these acts were the result of admitted confusion and not indicative of a "problem of rule breaking or not following . . . orders . . ." (Tr. 98-99).

Respondent did not attempt to explain the source of her confusion. Moreover, she claimed to have been unaware that there is a specific pregnancy-related Patrol Guide provision (Tr. 76) which requires pregnant members to "[c]omply with 'P.G. 205-01, 'Reporting Sick,' [the general sick reporting section that applies to all members] when unable to perform duty due to illness or other physical condition." P.G. 205-27, p.1, para. 6. Having been a police officer for over three years on the date in question, Respondent

had an obligation to be familiar with the sick reporting procedure and abide by its requirements.

As to the issue of not updating her contact information, I credit Respondent's testimony that she had not updated her information with the Department because she was in the process of moving and was staying with her aunt for a brief time and intended to do so once she was settled in her new apartment. At the same time, it is critical that an organization like the Police Department be able to get in touch with members as needed. Moreover, Respondent was the subject of disciplinary charges in 2011 while she was a probationary police officer and pled guilty to failing to maintain a current address and telephone number with the Department. *Case No. 2011-6084* (February 19, 2013) Similarly, in that instance, Respondent was between apartments and staying with friends temporarily. As a result of this incident, Respondent should have heightened awareness of the fact that any address change, temporary or permanent, must reported to the Department. For this reason, the tribunal is not inclined to mitigate the penalty related to this charge.

### Specification 3

Respondent stands charged with failing to properly handle a noise complaint while working as a telephone switchboard operator on June 6, 2013. Respondent pled guilty to the charge and seeks mitigation of the penalty. On that date, Respondent received 311 calls, logged them into the system and assigned each to a sector. (Tr. 73-74). She acknowledged that she failed to properly forward one noise complaint to a sector but explained that when she attempted to forward the job she was told to call back

because they were busy with a priority job. Respondent candidly stated that she “got busy throughout the night” with other calls and simply forgot to call back with the information.

#### Specification 4

Respondent stands charged with wrongfully extending her meal period beyond sixty minutes on August 9, 2013. Respondent readily admitted that she intended to and did take a meal two hour meal exceeding sixty minutes, from 0500 to 0700 hours. (Tr. 82-83). Accordingly, she is Guilty of Specification 4.

Respondent testified that on the date at issue she was working inside the precinct with two other administrative members. (Tr. 79). She stated that, “When I came to midnights . . . when I went restricted [in April 2013], I was told by the senior officers that have been there their whole career[s], basically, depending on how much of us is in the precinct once the work is done, we’ll break up the meals. The meals took place either between 1:00 and 3:00, 3:00 to 5:00 and 5:00 to 7:00. That’s how they broke it up.” (Tr. 79-80). She further explained that the officers in the stationhouse worked out the meal periods amongst themselves and ensured that all posts were covered. (Tr. 80-81).

Respondent believed supervisors knew about this arrangement. (Tr. 82). She acquiesced, though that she was not given express permission to take more than an hour for meal. (Tr. 90).

Sergeant Edmund Small was working as the desk officer for the second platoon on August 9, 2013. He also was doing vest inspections and planned to inspect respondent’s vest during the expiration of her tour. He looked for her at the TS desk but

did not find her there. (Tr. 14). After checking a few locations within the stationhouse, he asked Sergeant Gersbeck, the desk officer for the first platoon, where Respondent was and was informed that she had signed out for meal at 0500 hours. (Tr. 14-16). Gersbeck asked Police Officer Cleveland, the delegate for the 70 to please find Respondent. (Tr. 36).

Gersbeck testified that Respondent came back to the desk, "fairly quickly" after Gersbeck asked Cleveland to locate her. Respondent then told him that she was being unfairly singled out. (Tr. 40, 56). Respondent did not accept a Command Discipline for discourtesy in connection with this incident. (Tr. 94).

Small asserted that he had never heard of any protocol allowing police officers to take meal exceeding one hour depending on their tour or their assignment. (Tr. 18). He further explained, "It's 60 minutes no matter what tours you work...It's 60 minutes, either if you're on patrol or inside. It doesn't matter. You have a 60-minute meal." (Tr. 18). Gersbeck also testified to being unaware of any protocol that allowed for extended meal unless the officer was working an extended tour. (Tr. 42-46).

Additional testimony was provided by Officer Cleveland who stated that she had worked the first platoon at the 70 Precinct for fifteen years. She testified that administrative members have generally broken up the meal periods amongst themselves depending on how many members were assigned to the stationhouse since at least 2011. (Tr. 61, 65). She asserted that this was done with the knowledge of the first platoon supervisors. (Tr. 62). Like Respondent, she testified that no supervisor had expressly authorized taking a meal that exceeded one hour but that she understood their directive to

“break up the meals amongst themselves” to mean that they could take longer meals provided the work was covered. (Tr. 68).

Although Respondent had pled Not Guilty to taking an extended meal period with authorization, it is undisputed that she took a meal that exceeded one hour without any express authorization from a supervisor. The testimony of Respondent and her delegate that supervisors knew that officers working inside took longer meals is contradicted by the testimony of Small and Gersbeck and not supported by any other evidence.

Respondent's argument that other officers were not disciplined for taking an extended meal that day or on other occasions has little relevance to this tribunal, as the court's only task here is to determine whether Respondent is Guilty of the charge set forth in Specification 4. As Respondent's own testimony shows that she did extend her meal period beyond one hour without permission or authority, I find her Guilty of Specification 4.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 6, 2010. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

For the four specifications, the Department seeks a penalty of twenty (20) vacation days. Respondent is Guilty of (i) failing to report to the Pregnancy Medical District, as required; (ii) failing to maintain a current address and telephone number on

file with the Department; (iii) failing to properly handle a noise complaint while working as the Telephone Switchboard Operator on June 6, 2013; and (iv) extending her meal period beyond sixty minutes without authorization.

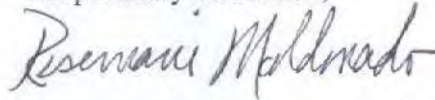
In support of the recommended penalty, the Department cited cases where Respondents were found Guilty of multiple instances of minor misconduct. In *Case No. 2013-11050* (September 30, 2014), a nine-year police officer, with no prior disciplinary history, negotiated a penalty of the fifteen (15) vacation days for being absent from his post for over three hours, leaving the confines of New York City while on duty, failing to notify his command when leaving post, utilizing his personal vehicle without permission to conduct personal business while on duty and failing to notify his supervisor that he had been released from court. In *Case No. 2011-5276* (January 14, 2014), a seventeen-year detective with no prior disciplinary history negotiated a penalty of fifteen (15) vacation days for extending his meal off-post, taking his meal at a movie theater without authorization, using his shield to gain admittance to a movie theater without payment, failing to make entries in the Command log regarding the extended meal, and failing to make entries in his memo book.

Here, although Respondent extended her meal, there is no allegation that she was at an unauthorized location, left the confines of the precinct or was conducting any personal business like the respondents in the cited cases. She was located inside the stationhouse after just a few minutes. The other three instances of misconduct- failing to report to the Surgeon on the day she was scheduled, failing to properly handle noise complaints, and failing to timely notify the Department of an address change- are also relatively minor in nature. I note that Respondent did report to the surgeon one day later.



Having considered all of the testimony and circumstances, including Respondent's one prior disciplinary adjudication, the tribunal finds that a penalty of fifteen (15) vacation days fairly and adequately addresses Respondent's misconduct.

Respectfully submitted,



Rosemarie Maldonado  
Deputy Commissioner Trials

**APPROVED**

NOV 20 2015



WILLIAM J. BRATTON  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

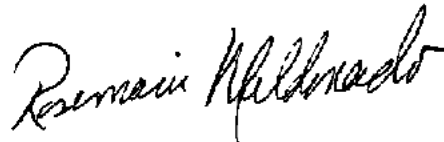
From: Deputy Commissioner - Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER CAMILLE MCSAM  
TAX REGISTRY NO. 949313  
DISCIPLINARY CASE NO. 2013-10931

Respondent was appointed to the Department on July 6, 2010. Her last three annual evaluations were 3.5 ratings of "Highly Competent/Competent" in 2011, 2012 and 2014. She has no medals.

In 2013, Respondent pled guilty to (i) leaving her Department issued LIRR pass unsecured; (ii) failing to notify the Department of a change of address; and (iii) criminal association, and negotiated a penalty of twenty (20) vacation days. She was placed on Level 2 Disciplinary Monitoring on March 17, 2015 as a result of the instant charges and specifications. That monitoring remains ongoing.

[REDACTED]

For your consideration.



Rosemarie Maldonado  
Deputy Commissioner – Trials